

## **Mississippi Pesticide Law of 1975**

### **SEC. 69-23-1. Title of chapter.**

This chapter shall be known and cited as the Mississippi Pesticide Law of 1975.

SOURCES: Codes, 1942, Sec. 5000-01; Laws, 1950, ch. 452, Sec. 1; 1975, ch. 319, Sec. 3, eff from and after July 1, 1975.

### **SEC. 69-23-3. Definitions.**

Definitions for the purpose of this chapter:

(a) The term "pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting any pests; and shall also include adjuvants intended to enhance the effectiveness of pesticides; and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(b) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting insects which may be present in any environment whatsoever.

(c) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

(d) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animals which the commissioner shall declare to be pests.

(e) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

(f) The term "adjuvant" means any substance that, when added to a pesticide is intended to aid, modify or enhance its effectiveness by its properties of serving as a wetting agent, detergent, spreading agent, synergist, deposit builder, adhesive, surfactant, emulsifying agent, deflocculating agent, water modified, or similar agent, with or without toxic properties of its own, and when sold in a package or container separate from that of the pesticide with which it is to be used.

(g) The term "nematicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

(h) The term "plant regulator" means any substance or mixture of substances intended through physiological action, for accelerating the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants, or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(i) The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(j) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(k) The term "disinfectant" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating bacteria or other harmful microorganisms; or otherwise frees from infection; commonly applied to inanimate objects.

(l) The term "bactericide" means a substance capable of destroying a given species of vegetative bacteria but not necessarily capable of destroying bacterial spores.

(m) The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms as, for example, beetles, bugs, bees, flies, and to other allied classes of orthopods whose members are wingless and usually have more than six legs as, for example, spiders, mites, ticks, centipedes, and wood lice.

(n) The term "nematodes" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(o) The term "fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria except those on or in living man or other animals, and those in or on processed food, beverages or pharmaceuticals.

(p) The term "weed" means any plant which grows where not wanted.

(q) The term "ingredient statement" means:

(i) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients in the pesticide;

(ii) When the pesticide contains arsenic in any form, the ingredient statement shall also include the percentages of total and water soluble arsenic, each calculated as elemental arsenic;

(iii) In the case of spray adjuvants, the ingredient statement need contain only the names of the functioning agents and the total percentage of the constituents ineffective as spray adjuvants.

(r) The term "active ingredient" means:

(i) In the case of a pesticide other than a plant regulator, defoliant or desiccant an ingredient which will prevent, destroy, repel, attract or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

(ii) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(iii) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(iv) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue;

(v) In the case of a spray adjuvant, any ingredient which will act as a functioning agent.

(s) The term "inert ingredient" means an ingredient which is not an active ingredient.

(t) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(u) The term "person" means any individual, partnership, association, corporation or organized group of persons, whether incorporated or not.

(v) The term "commissioner" means the Commissioner of Agriculture and Commerce, or his agent.

(w) The term "entomologist" means the State Entomologist of the Mississippi Department of Agriculture and Commerce.

(x) The term "registrant" means the person registering any pesticide pursuant to the provisions of this chapter.

(y) The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide.

(z) The term "labeling" means all labels and other written, printed or graphic matter:

(i) Upon the pesticide or any of its containers or wrappers;

(ii) Accompanying the pesticide at any time;

(iii) To which reference is made on the label or in literature accompanying the pesticide, except when accurate, nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, Department of Agriculture or Interior, the United States Public Health Service, State Experiment Station, state agricultural colleges, or other similar federal institutions or official agencies of this state, or other states authorized by law to conduct research in the field of pesticides.

(aa) The term "adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the articles, or if any valuable constituent of the article has been wholly or in part abstracted.

(bb) The term "misbranded" shall apply to any pesticide:

(i) If its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading to any particular;

(ii) If it is an imitation of or is offered for sale under the name of another pesticide;

(iii) If its labeling does not contain a statement of the use classification under which the product is registered;

(iv) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, together with any requirements imposed under the Federal Insecticide, Fungicide and Rodenticide Act, are adequate for the protection of health and environment;

(v) If the label does not contain a warning or caution statement which may be necessary and, if complied with, together with any requirements which may be imposed under the Federal Insecticide, Fungicide and Rodenticide Act, are adequate to protect health and environment;

(vi) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase; the ingredient statement may appear prominently on another part of the container as permitted under the Federal Insecticide, Fungicide and Rodenticide Act if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(vii) If any word, statement or other information required by or under the authority of this chapter to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(viii) If in the case of an insecticide, fungicide or herbicide, or nematocide when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide; or

(ix) In the case of a plant regulator, defoliant or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticide; provided, that physical or physiological effect on plants or parts thereof shall not be deemed to be injurious when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations.

(cc) The term "environment" includes water, air, land and all plants and man and other animals living therein and inter-relationships which exist among these.

(dd) The term "EPA" means the United States Environmental Protection Agency.

(ee) The term "imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation under this chapter would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior.

(ff) The term "pest" means:

(i) Any insects, rodents, nematodes, fungi, weeds, or

(ii) Other forms of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the commissioner declares to be a pest.

(gg) The term "licensed pesticide dealer" means any person who distributes or offers for sale restricted use pesticides and/or state restricted use pesticides.

(hh) The term "Pesticide dealer manager" means an individual (who may be the owner) supervising pesticide distribution at one (1) outlet holding a pesticide dealer license.

(ii) The term "protect health and environment" means protection against any unreasonable adverse effects on the environment.

(jj) The term "restricted use pesticide" means any pesticide classified for restricted use by EPA or the commissioner. Any pesticide which is not classified for restricted use by January 1, 1976, will be deemed to be for general use. In order not to deprive the citizens of this state of the benefits

derived from newly developed pesticides or uses which may be restricted by EPA after January 1, 1976, the commissioner may register such pesticides for restricted use if that is the only method by which they may be made available to the citizens of Mississippi.

(kk) The term "state restricted pesticide" means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the commissioner determines subsequent to a hearing requires additional restrictions for that use to protect the environment, including man, lands, beneficial insects, animals, crops and wildlife other than pests.

(ll) The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

(mm) The term "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

SOURCES: Codes, 1942, Sec. 5000-02; Laws, 1950, ch. 452, Sec. 2; 1964, 1st Ex. Sess. ch. 32; 1968, ch. 248, Sec. 1; 1970, ch. 266, Sec. 1; 1971, ch. 509, Sec. 1; 1975, ch. 319, Sec. 4; 1991, ch. 530, Sec. 15, eff from and after July 1, 1991.

#### **SEC. 69-23-5. Prohibited acts; application of Trade Secrets Act.**

(1) It shall be unlawful for any person to distribute, sell or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(a) Any pesticide which has not been registered pursuant to the provisions of Section [69-23-7](#) or any pesticide if any of the claims made for it or any of the directions for its use differ from its composition or representations made in connection with its registration; provided, that in the discretion of the commissioner a change in the labeling or formula of a pesticide may be made within a reregistration period within requiring registration of the product if the registration is amended to reflect such change and if the changes will not violate any provisions of FIFRA or this chapter.

(b) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one (1) through which the required information on the immediate container cannot be clearly read, a label bearing:

(i) The name and address of the manufacturer, registrant or person for whom manufactured;

(ii) The name, brand, or trademark under which said article is sold;

(iii) The net weight or measure of the content, subject, however, to such reasonable variations as the commissioner may permit;

(iv) A batch number from which the date of packaging can be determined for certain pesticides which have been determined to deteriorate in relatively short periods, when requested by the commissioner;

(v) The EPA registration number assigned to each establishment in which it was produced and the EPA registration number assigned to the pesticide if required by regulation under FIFRA;

(vi) Any other information required by this chapter or regulation promulgated thereunder; except that this subsection (b) shall not apply:

(i) To the transportation, within the meaning of this section, of refined petroleum naphtha or refined petroleum distillate, by tank truck, or by tank cars, or in tanks by rail;

(ii) To the delivery of refined petroleum naphtha or refined petroleum distillate from a storage tank, or tank truck, in a quantity of not less than fifty (50) gallons, if, at the time of such delivery the person delivering the said material delivers to the person to whom the delivery is made, or his agent or representative, a written or printed statement containing the information, with respect to the material delivered, required by the provision of clauses (i), (ii) and (iii) of this subsection (b); Provided, however, that the commissioner may designate that certain specific pesticides may be distributed or offered for sale by the manufacturer and/or registrant in bulk, in which case the label information required and any other statements required by this chapter must be stated in or attached to the invoice; and in addition, a copy of said invoice must be given to the purchaser at the time the pesticide is delivered. In addition to the above, the commissioner may set rules and regulations for the sale, dispensing, storing, handling and transportation of pesticides in bulk.

(c) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in Section [69-23-9](#), unless the label shall bear, in addition to any other matter required by this chapter:

(i) The skull and crossbones;

(ii) The word "poison" prominently, in red on a background of distinctly contrasting color;

(iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(d) Any pesticide which has not been colored or discolored pursuant to the provisions of this chapter.

(e) Any pesticide which is adulterated or misbranded.

(f) Any pesticide in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) For any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for in this chapter or regulations promulgated hereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter;

(b) For any person to use for his own advantage or to reveal, other than to the commissioner or proper officials or employees of the state or the EPA, or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in preparation of antidotes, any information relative to formulas of products acquired by authority of this chapter or any information judged by the commissioner as containing or relating to trade secrets or commercial or financial information obtained by authority of this chapter and marked as confidential by the registrant;

(c) For any person to distribute any pesticide labeled for restricted use to any person, or his agent who is not certified to use or purchase such pesticide;

(d) For any person to use or cause to be used any pesticide in a manner inconsistent with its labeling or to regulations of the commissioner if those regulations further restrict the uses provided on the labeling;

(e) For any person to handle, transport, store, display, distribute or dispose of any pesticide or container in such a manner as to endanger man and his environment. The commissioner is hereby authorized, empowered and directed to authorize and grant a permit to any person, firm or corporation to dispose of any existing stock of pesticide it may have on hand at the time this chapter becomes effective, including all packages, labels and containers; provided that such stock is packaged and labeled in accordance with federal laws and regulations governing the packaging and labeling of such products.

(3) In addition to any criminal remedy set forth in subsection (2), remedies for misappropriation of a trade secret shall be governed by the Mississippi Uniform Trade Secrets Act, Sections [75-26-1](#) through [75-26-19](#).

SOURCES: Codes, 1942, Sec. 5000-03; Laws, 1950, ch. 452, Sec. 3; 1952, ch. 167; 1958, ch. 151; 1970, ch. 266, Sec. 2; 1971, ch. 509, Sec. 2; 1975, ch. 319, Sec. 5; 1984, ch. 341; 1990, ch. 442, Sec. 15, eff from and after July 1, 1990.

#### **SEC. 69-23-7. Registration.**

(1) Every pesticide which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the commissioner, and such registration shall be renewed annually; provided, that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims and the labels of which bear a designation identifying the products as the same pesticide, may be registered as a single pesticide; and additional names and labels shall be added by supplement statements during the current period of registration. The registrant shall file with the commissioner a statement including:

(a) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant;

(b) The name of the pesticide;

(c) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use and the use classification as provided for in FIFRA;

(d) If requested by the commissioner, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered; and

(e) Any other information required by the commissioner which may be prescribed by regulation.

(2) The registrant shall pay an annual fee of Two Hundred Dollars (\$200.00) for each brand or grade of pesticide registered. All of the fees collected under authority of this section shall be deposited in a special fund in the Treasury of the State of Mississippi and subject to appropriation by the Mississippi Legislature. The fees shall be used by the Mississippi Department of Agriculture and Commerce for enforcement of this chapter. The Department of Agriculture and Commerce may contract with the Department of Environmental Quality for a groundwater monitoring program.

(3) The commissioner, whenever he deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide. If it appears to the commissioner that the composition of the articles is such as to warrant the proposed claims for it, and if the article and its labeling and other material required to be submitted comply with the requirements of Section [69-23-5](#), he shall register the article; provided, that the article is registered under

FIFRA. If the state is certified by the administrator of EPA to register pesticides pursuant to Section 24(c) of FIFRA, he may register the article to meet special local needs if he determines that the registration will not be in violation of FIFRA.

(4) If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this chapter, he shall notify the applicant of the manner in which the article, labeling or other material required to be submitted fail to comply with the chapter so as to afford him an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the commissioner may refuse to register the article and the applicant may request a hearing. In order to protect the public, the commissioner, with approval of the advisory board provided for in Section [69-25-3](#), may, at any time, cancel or suspend the registration of a pesticide if he determines that it does not comply with this chapter or creates an imminent hazard; or, pursuant to a notice from the Commission on Environmental Quality under Section [49-17-26](#) in relation to state underground water quality standards, he shall provide for modification of the labeling of any pesticide, or suspend or cancel the registration of any pesticide or any use of any pesticide, or adopt a regulation in accordance with Section [69-23-9](#) to protect the underground water resources, as defined in the Federal Safe Drinking Water Act, in the shortest reasonable time. He may advise EPA of the manner in which a federally registered pesticide fails to comply with FIFRA and suggest the necessary corrections.

(5) Notwithstanding any other provision of this chapter, registration is not required in case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

SOURCES: Codes, 1942, § 5000-04; Laws, 1950, ch. 452, § 4; Laws, 1958, ch. 150; Laws, 1971, ch. 509, § 3; Laws, 1975, ch. 319, § 6; Laws, 1987, ch. 523, § 4; Laws, 1991, ch. 530, § 16; Laws, 1993, ch. 613, § 6; Laws, 2001, ch. 559, § 1, SB 2769, eff from and after July 1, 2001.

#### **SEC. 69-23-9. Determinations; rules and regulations; uniformity.**

(1) The commissioner is authorized, after opportunity for a hearing:

(a) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles or substances;

(b) To determine whether pesticides registered under authority of Section 24 (c) of FIFRA are highly toxic to man in conformity with federal regulations;

(c) To determine standards of coloring or discoloring for pesticides and to subject pesticides to the requirements of section [69-23-5](#) (1).

(2) The commissioner is authorized, after due public hearing, to make appropriate rules and regulations for carrying out the provisions of this chapter, including but not limited to rules and regulations providing for the collection and examination of samples; the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; protecting the environment; labeling and adopting state restricted pesticide uses.

(3) In order to avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs to the people of this state due to the necessity of complying with such diverse requirements in the manufacture and sale of such pesticides, it is desirable that there should be uniformity between the requirements of the several states and the federal government relating to such pesticides. To this end the commissioner is authorized, after due public hearing, to adopt by regulation such regulations, applicable to and in conformity with the primary standards established by this



chapter, as have been or may be prescribed by the United States Government with respect to pesticides.

(4) No action taken by the commissioner under the provisions of this section shall be effective unless and until such action is approved by the advisory board created under the provisions of section [69-25-3](#), Mississippi Code of 1972.

SOURCES: Codes, 1942, Sec. 5000-05; Laws, 1950, ch. 452, Sec. 5; 1971, ch. 509, Sec. 4; 1975, ch. 319, Sec. 7, eff from and after July 1, 1975.

#### **SEC. 69-23-11. Enforcement.**

(1) The commissioner or his employees, with proper identification and during normal working hours, shall have free access to all places of business, factories, buildings, carriages, cars, stores, warehouses and other places where pesticides are offered for sale or kept for sale or distribution or use and application, and shall have authority to inspect or open any container of pesticide and to take therefrom a sample for the purpose of examination and analysis. It shall be the duty of the commissioner to take such samples and deliver them to the state chemist for examination and analysis.

(2) It shall be the duty of the state chemist to cause as many analyses to be made of samples delivered to him by the commissioner as may be necessary to properly carry into effect the intent of this chapter. He shall make reports of such analysis to the commissioner and to the manufacturer, firm or person responsible for placing on the market the pesticide represented by the samples.

(3) If it shall appear that any pesticide fails to comply with the provisions of this chapter, and the commissioner contemplates instituting criminal proceedings against any person, the commissioner shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if thereafter, in the opinion of the commissioner, it shall appear that the provisions of the chapter have been violated by such person, then the commissioner shall refer the facts to the district attorney for the county in which the violation shall have occurred, with a copy of the results of the analysis or the examination of such article; provided, however, that nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings minor violations of this chapter whenever he believes that the public interest will be best served by a suitable notice of warning in writing.

(4) It shall be the duty of each district attorney to whom any such violation is reported to cause appropriate proceedings to be instituted and prosecuted in the circuit court without delay.

(5) The commissioner shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this chapter.

SOURCES: Codes, 1942, Sec. 5000-06; Laws, 1950, ch. 452, Sec. 6; 1971, ch. 509, Sec. 5; 1975, ch. 319, Sec. 8, eff from and after July 1, 1975.  
1997 Amendment

SECTION 1. Section 69-23-11, Mississippi Code of 1972, is amended as follows:

69-23-11. (1) The commissioner or his employees, with proper identification and during normal working hours, shall have free access to all places of business, factories, buildings, carriages, cars, stores, warehouses and other places where pesticides are offered for sale or kept for sale or distribution or use and application, and shall have authority to inspect or open any container of pesticide and to take therefrom a sample for the purpose of examination and analysis. It shall be

the duty of the commissioner to take such samples and deliver them to the State Chemist for examination and analysis.

(2) It shall be the duty of the State Chemist to cause as many analyses to be made of samples delivered to him by the commissioner as may be necessary to properly carry into effect the intent of this chapter. He shall make reports of such analysis to the commissioner and to the manufacturer, firm or person responsible for placing on the market the pesticide represented by the samples.

(3) If it shall appear that any pesticide fails to comply with the provisions of this chapter, or if provisions of this chapter have been violated, the commissioner may proceed with appropriate action as provided in this chapter or under the administrative hearing procedures provided in Section 69-25-51 et seq. If, in the opinion of the commissioner, it shall appear that the provisions of the chapter have been violated, the commissioner may refer the facts to the county attorney, district attorney or attorney general. However, nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings minor violations of this chapter whenever he believes that the public interest will be best served by a suitable notice of warning in writing.

(4) It shall be the duty of each county attorney, district attorney or attorney general to whom any such violation is reported to cause appropriate proceedings to be instituted and prosecuted in the appropriate court without delay.

(5) The commissioner shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this chapter.

SOURCE: 1997 Laws, Chapter 449, Sec. 1, SB2637, Effective AP-March 25, 1997.

#### **SEC. 69-23-13. Jurisdiction of commissioner.**

Jurisdiction in all matters pertaining to the distribution, sale and transportation of pesticides is vested exclusively in the commissioner.

SOURCES: Codes, 1942, Sec. 5000-12; Laws, 1950, ch. 452, Sec. 12; 1971, ch. 509, Sec. 10; 1975, ch. 319, Sec. 9, eff from and after July 1, 1975.

#### **SEC. 69-23-15. Exemptions.**

(1) The penalties provided for violations of section [69-23-5](#) (1) shall not apply to:

(a) Any carrier while lawfully engaged in transporting a pesticide within this state if such carrier shall, upon request, permit the commissioner or his employees to copy all records showing the transaction in and movement of the articles;

(b) Public officials of this state and the federal government engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research.

(c) The manufacturer or shipper of a pesticide for experimental use only:

(i) By or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides; or

(ii) By others if the pesticides shipper or manufacturer holds a valid experimental use permit as provided for by section [69-23-25](#) or by EPA.

(2) No article shall be deemed in violation of this chapter when intended solely for export to a foreign country, and when prepared or packaged according to the specifications or directions of the purchaser. If not so exported, all the provisions of this chapter shall apply.

SOURCES: Codes, 1942, Sec. 5000-07; Laws, 1950, ch. 452, Sec. 7; 1971, ch. 509, Sec. 6; 1975, ch. 319, Sec. 10, eff from and after July 1, 1975.

#### **SEC. 69-23-17. Cooperation.**

The commissioner is authorized and empowered to cooperate with, and enter into cooperative agreements with, any other agency of this state, the United States Government, or its agencies or any public or private agency for the purpose of carrying out the provisions of this chapter and FIFRA and securing uniformity of regulations.

SOURCES: Codes, 1942, Sec. 5000-10; Laws, 1950, ch. 452, Sec. 10; 1971, ch. 509, Sec. 9; 1975, ch. 319, Sec. 11, eff from and after July 1, 1975.

#### **SEC. 69-23-19. Penalties.**

(A) Any person violating section [69-23-5](#) (A)(1) shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00).

(B) Any person violating any provision of this chapter other than section [69-23-5](#) (A)(1) shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) for the first offense and upon conviction for a subsequent offense shall be fined not more than seven hundred fifty dollars (\$750.00). Any offense committed more than five (5) years after a previous conviction shall be considered a first offense.

(C) Notwithstanding any other provisions of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of section [69-23-7](#), he shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than one year, or both.

SOURCES: Codes, 1942, Sec. 5000-08; Laws, 1950, ch. 452, Sec. 8; 1971, ch. 509, Sec. 7, eff from and after July 1, 1971.

1997 Amendment:

Repealed

SOURCE: 1997 Laws, Chapter 449, Sec. 5, SB2637, Effective March 25, 1997.

#### **SEC. 69-23-21. Seizures.**

(1) Any pesticide that is distributed, sold or offered for sale within this state or delivered for transportation or transported to intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any circuit court in any county of the state where it may be found and seized for confiscation by process of libel for condemnation:

(a) If it is adulterated or misbranded;

(b) If it has not been registered under the provisions of section [69-23-7](#);

(c) If it fails to bear on its label the information required by this chapter;

(d) If it is a white power pesticide and is not colored as required under this chapter.

(2) If the article is condemned, it shall, after entry of decree, be disposed of by destruction or sale, as the court may direct, and the proceeds, if such article is sold, less legal costs, shall be paid to the commissioner for transmission to the general funds of the state treasury; provided that the article shall not be sold contrary to the provisions of this chapter; and provided, further, that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing, as the case may be.

(3) When a decree of condemnation is entered against the article, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

SOURCES: Codes, 1942, Sec. 5000-09; Laws, 1950, ch. 452, Sec. 9; 1971, ch. 509, Sec. 8; 1975, ch. 319, Sec. 12, eff from and after July 1, 1975.

**SEC. 69-23-23. Nonresidents to designate secretary of state as agent for service of process; bond, when required.**

(A) Any nonresident individual, partnership, association, firm, or corporation desiring to distribute, sell, or offer for sale within this state any product described in this chapter, and any such nonresident who may be subject otherwise to the provisions of such chapter, shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident individual, partnership, firm, association, or corporation; and such power of attorney shall be so prepared in such form as to render effective the jurisdiction of the courts of Mississippi over such nonresident applicants and make such applicants amenable to the jurisdiction of the courts of this state. Provided, however, that any such nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for designating resident agents. The commissioner shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be duly certified by the secretary of state.

(B) The commissioner may also require such nonresident subject to the provisions of this chapter to furnish to him a fidelity bond or other security satisfactory to him and conditioned that the principal therein named shall pay for any and all damages suffered by any person by reason of the negligence of the principal or his or its agents in the conduct of said business and shall honestly conduct said business and as otherwise conditioned by said commissioner, provided that in no case shall a bond or other security exceeding ten thousand dollars (\$10,000.00) be required. A copy of said bond duly certified by the commissioner shall be received as evidence in all courts of this state without further proof. Any person having a right of action against such person, firm, association or corporation may bring suit against the principal and sureties on such bond. Should the surety furnished become unsatisfactory, said applicant shall execute a new bond and should he fail to do so, it shall be the duty of the commissioner to cancel his license and give him notice of said fact, and it shall be unlawful thereafter for such person to engage in said business without obtaining a new license.

SOURCES: Codes, 1942, Sec. 5000-14; Laws, 1952, ch. 266; 1971, ch. 509, Sec. 11, eff from and after July 1, 1971.

**SEC. 69-23-25. Experimental use permits.**

Upon the condition that the State of Mississippi is certified by the Administrator of the United States Environmental Protection Agency to issue experimental use permits for the testing of pesticides, the commissioner of agriculture and commerce may prescribe regulations for the issuance of such experimental permits. The commissioner may issue such experimental permit if

he determines that the applicant needs the permit to obtain information necessary to register a pesticide under the provisions of this chapter.

SOURCES: Laws, 1975, ch. 319, Sec. 1, eff from and after July 1, 1975.

**SEC. 69-23-27. Licensing of pesticide dealers.**

(1) It shall be unlawful for any person to act as a licensed pesticide dealer without being licensed by the commissioner. A license shall be required for each location or outlet located within this state from which such pesticides are distributed. Any dealer who has no pesticide outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

(2) Application for a license shall be submitted on a form prescribed by the commissioner, and shall include the name and address of the applicant, the name of the pesticide dealer manager, the address of each outlet, the name of the resident agent if the dealer is not a resident of this state, and any other information required by the commissioner.

(3) Provisions of this section shall not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service where such pesticides are applied by the commercial applicator; or (b) any federal, state, county or municipal agency which provides pesticides only for its own programs.

(4) The commissioner may set standards and qualifications for licensing of pesticide dealers and dealer managers to determine their competency.

(5) Licenses for pesticide dealers will expire on December 31 of each year and must be renewed annually.

(6) The commissioner may prescribe rules and regulations pertaining to licensing of pesticide dealers, including but not limited to record keeping, and may at any time cancel, suspend or revoke a pesticide dealer license when he finds there has been a failure or refusal to comply with the provisions of this chapter or regulations adopted hereunder.

SOURCES: Laws, 1975, ch. 319, Sec. 2, eff from and after July 1, 1975.

**SEC. 69-23-29. [To provide penalties for violations of the Mississippi Pesticide law.]**

(1)(a) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto at a minimum is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment at the discretion of the court having jurisdiction.

(b) Each violation and each day's violation shall constitute a separate offense.

(c) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto in such a way that causes harm or poses a threat to man, animals or the environment is guilty of a felony and, upon conviction, shall be punished by a fine of not more than Twenty-Five Thousand Dollars (\$25,000.00) or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years or by both such fine and imprisonment for each violation.

(2) Each violation of this chapter or the rules and regulations promulgated thereunder may subject the violator to civil action as provided for in Sections 69-25-51 through 69-25-65.

SOURCES: 1997 Laws, Chapter 449, Sec. 4, SB2637, Effective July 1, 1997.